IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.W.P. No: 1332 of 2006

Date of decision: 28.3.2007

Resident Welfare Association, Parwanoo **Petitioner**

Versus

State of H.P. and others **Respondents**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge.

Whether approved for reporting?[1]

For the Petitioners: Mr.Ajay Kumar, Advocate

For Respondent No.1 & 2 :Mr.M.S.Chandel, Advocate General with Mr. R.M.Bisht, Deputy Advocate General.

For respondent No. 3: Mr.Ajay Mohan Goel, Advocate

For respondent No. 4: Mr.Rajeev Sharma, Senior Advocate, with Mr.Surinder Sharma, Advocate

For respondent No. 5: Mr.Praneet Gupta, Advocate

For respondent No. 6: Mr.Janesh Gupta, vice Mr.Ajit Jaswal, Advocate

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Per Deepak Gupta, J. (Oral)

The petitioner No. 1 is the Residents Welfare Association, Sector IV, Parwanoo and its main grievance is that respondents No. 5 and 6 herein are raising

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

construction in violation of the zoning laws and the byelaws.

We need not advert to the various allegations made in the petition. It is the admitted case of the parties that the construction plan submitted by Mohan Lal, son of Lehnu Ram, predecessor-in-interest of respondent No. 5 Smt. Rekha Singla, was approved by the Municipal Council, Parwanoo on 28th August, 2006. The Municipal Council in its reply has stated that on 28th November, 2006, Municipal Committee, Parwanoo took a decision that in view of the various objections raised by the residents of Parwanoo, the plan which has been sanctioned in favour of Mohan Lal, may be put in abeyance till the views and approval of the Town and Country Planning Department is obtained. A communication was also sent to respondent No. 5 that no construction should be raised until the report of Town and Country Planning Department is received.

As far as respondent No. 6 is concerned, the admitted position is that no plan in favour of respondent No. 6 has been sanctioned till date. According to respondent No. 6 he has not raised any construction on the plot, but has only developed the plot anticipating that

permission for raising construction will be granted in his favour.

The main dispute raised is with regard to the number of storeys which can be permitted to be raised on the plot. We do not intend to decide this issue on merits and it is best left to be decided by the concerned authorities, i.e. respondents No. 2, 3 and 4. From the pleadings it is apparent that respondent no. 2 has not responded to the communication of respondent No. 4, dated 8th December, 2006 asking it to clarify certain points. We dispose of the writ petition with the following directions :-

(i) That respondent No. 2 shall ensure that an appropriate response is sent by an officer of the Department of Town and Country Planning to respondent No. 4 latest by 31st May, 2007 ;

(ii) On receipt of the response/views of respondent No. 2, the Municipal Council shall again take up the matter for reconsideration of the plan submitted by Mohan Lal, the predecessor-in-interest of respondent No. 5 and for consideration of plan of respondent No. 6;

(iii) Since the petitioners have raised objection to the grant of such sanction, as prayed for by respondents No. 5 & 6, they may also be heard in the matter.

(iv) The Municipal Council shall fix a date sometime in the third week of June, 2007 for hearing the petitioner as well as respondents No. 5 & 6;

(v) A communication shall be sent to the parties and their counsel appearing before us in the court. This will amount to sufficient compliance for sending notice. After hearing the parties, who are present, the Municipal Council may take decision in this regard latest by 30th June, 2007. Since there is no subsisting sanction as on date, respondents No. 5 and 6 shall not raise any construction till the plans are duly sanctioned in their favour. All the pending CMPs also stand disposed of.

(Deepak Gupta), J.

March 28, 2007 (Surinder Singh), J.
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